

Furlough FAQs

Revised by DHRM January 24, 2019

Table of Contents

A. Working during the Furlough.....	3
B. Leave and Other Time off.....	4
C. Benefits.....	5
D. Furlough Procedures.....	9
E. Furlough Rules.....	11

A. Working during the Furlough:

1. Can an agency require a furloughed employee to work a part-time schedule if a portion of their position is not federally funded?

An agency can work a furloughed employee part-time however; agencies should avoid any action that would override state funds with federal funds. Since working employees part-time will have a budgetary impact, agency management will need to evaluate each furloughed employee on a case by case basis.

2. Are state employees allowed to work another job outside of the State while on furlough?

Yes, the same conflict of interest rules apply to furloughed employees as they do to all other employees. The outside employment work cannot interfere with the performance of the employee's job, the interests of the employee's agency or the State of Utah. Employees should receive approval from agency management and sign a conflict of interest form before engaging in outside employment. The State of Utah is still considered the employees primary employer and furloughed employees are expected to return to work when called upon by agency management.

3. What happens to employees scheduled for training during a furlough?

Furloughed employees who are scheduled for training during the furlough period should not attend the training because of a lapse of funding. Employees who have traveled and are away from the office for training after receiving a furlough notification should following the direction of agency management in continuing the training.

4. Can I volunteer to do my job?

No. As governed by the FLSA, the State of Utah cannot allow its employees to volunteer, without compensation to do the same work for which they are employed.

5. Can I transfer to a position that is not being furloughed in order to continue to work and be paid?

Possibly, Agency management has the discretion to fill positions through a reassignment or transfer in accordance with DHRM rule R477-4-5.

6. Can I telework to avoid being furloughed?

No. Telework would have a budgetary impact on your agency.

7. What happens for a new employee that is scheduled to report to work for the first time during furlough?

Agencies that have employees who are expected to begin in a position that because of the federal shutdown has lapsed federal funding, are instructed to delay the first day of work until funding is solidified.

8. If while on furlough I resign my position with the State of Utah, will all of my separation benefits (annual, excess leave, and compensation for FLSA non-exempt employees) be paid out?

Yes. Payouts upon separation are already funded through State termination pools and will be paid out on your final paycheck.

B. Leave and Other Time Off:

9. Will the furlough affect employees' leave accrual? What about holidays?

No. Annual, sick, and holiday leave will accrue at the rate the employee would have accrued leave if the furlough hours were work hours. The payroll system will automatically calculate this correctly and holiday hours will be paid out normally¹. This is explained in more detail in question 26.

10. Is a furloughed employee allowed to use compensatory or excess leave?

With supervisory approval, FLSA non-exempt employees may use compensatory leave. Also with supervisory approval, FLSA non-exempt and FLSA exempt employees may use excess leave. FLSA exempt employees may not use compensatory leave during a furlough. The reason that compensatory time for FLSA non-exempt employees and excess time for both FLSA exempt and non-exempt employees is allowed during a furlough is because these leave accounts have already been funded when the leave accrued.

Please consult with the Employee Resource Information Center (ERIC) 801-538-3742 to inquire regarding your available leave balances and FLSA status. You may also find your own leave balances on your most recent pay statement or on the Employee Self-Service (ESS) payroll system. You may alternatively find your own FLSA status on the Employee Gateway by clicking on "View More Details" in the "My Employee Profile" section, and then in the "Personal Information & Assignment" section.

¹ Funding is based on the assumption that the federal shutdown is a temporary situation. If the shutdown creates long term State budget issues, continued long term funding is subject to legislative approval.

11. Can an employee use annual or sick leave during a furlough?

No, employees who have been furloughed cannot use annual or sick leave. Use of this leave could have a budgetary impact on the agency as a result of the lapse of federal funding for the position.

12. What if I am furloughed while I am on leave (such as a vacation)?

If you are furloughed while on paid leave, your paid leave use ends immediately on the first day of furlough, and you are placed on furlough leave instead. You must remain on furlough leave for the entire duration of the furlough. The requirement to furlough supersedes leave and other paid time off use because of a lapse of funding.

13. What happens if I am furloughed while I am on FMLA?

If you are using your own paid leave while on FMLA, your paid leave use ends immediately on the first day of furlough and you are placed on furlough leave instead. You must remain on furlough leave for the entire duration of the furlough. Days that you are on furlough leave will not be counted against the 12 week FMLA leave entitlement.

14. If I am injured while on furlough will I be eligible for workers compensation?

No. Workers compensation is paid to employees only if they are injured while performing their duties and on the job. Furloughed employees, who are receiving workers compensation payments, will continue to receive those payments. For questions regarding your claims status during a furlough please contact the workers compensation fund at 1-800-446-2667.

15. How will the furlough impact my service credit with the State of Utah?

There will be no impact with your service credit with the State of Utah. There may be an impact with your service credit with Utah Retirement Systems (URS) see question 23.

C. Benefits:

16. What happens to the employer's portion of benefits?

State agencies may not continue to pay full benefits for the employer portion based on Utah Code 63J-1-218, which states, "In any fiscal year in which federal grants to be received by state agencies, departments, divisions, or institutions are reduced below the level estimated in the appropriations acts for that year, the programs supported by those grants must be reduced commensurate with the amount of the federal reduction unless the Legislature appropriates state funds to offset the loss in federal funding.".

- Benefits that are paid in a fixed dollar amount, such as medical, dental, and life insurance, **the dollar amount remains the same, but** the premiums may not be paid in full unless funds are appropriated by the Legislature.
- Benefits that are salary-driven and are a percentage of wages, such as retirement contributions, **the percentage will remain the same** and will be applied to actual wages earned. Therefore the amounts contributed will be less in the pay period of a furlough.

17. How will the employee portion of medical and dental insurance be paid if I am furloughed?

PEHP will send a bi-weekly bill to the employee for their portion and the employers portion (if applicable) of medical and dental premiums (if furloughed for more than a pay period). If premiums are not paid, the furloughed employee will lose medical and dental coverage. If the employee or employer pays back missed premiums to PEHP after the furlough, PEHP will reinstate the plan.

18. What happens with my Health Savings Account (HSA) while I'm furloughed?

Employee contributions will be on hold until you return to work. However, you may use funds in your account for eligible items tax free at any time. When you return to work, you may make any necessary adjustments to your payroll deduction for the HSA by visiting your myPEHP account and clicking on HSA Elections.

19. What happens to my Flexible Spending Account (FSA) while I'm furloughed?

You may continue using your FSA on eligible expenses. Once you return to work, payroll deductions will be trued up for payroll deductions missed during the furlough. Unless other arrangements are made, the missed deductions from the furloughed period will be divided equally among the remaining payroll periods in the plan year.

20. What will happen to my PEHP Life insurance and Accident plan while I'm furloughed?

PEHP will bill you directly for the bi-weekly premium share of your current life insurance and accident plan.

21. What happens to my PEHP Life insurance and Accidental plan if I don't pay the premiums while I am furloughed?

Your PEHP life insurance and accident plan will lapse if you don't pay the premiums while you are furloughed. If coverage is cancelled during the furlough, and you would like to reinstate your coverage to previous levels, you must contact PEHP within 30 days of your return to work. You **will not** be required to complete a health questionnaire or have a paramedic exam.

Remember, if you choose not to pay your life and accident premiums while you are furloughed, you will not have coverage under these programs if something were to happen.

22. What happens to voluntary (employee paid only) benefits?

Many employee paid, voluntary benefits, are subject to earnings gained per pay period and are paid through payroll deduction. Employees, who don't earn enough in a pay period during a furlough to pay for voluntary benefits, may need to coordinate with his/her benefits provider for payment options. Each provider will handle this situation differently. A list of contact information for voluntary benefits providers is provided below:

For questions regarding your Voluntary Benefits, please contact:

Auto / Home Insurance:	MetLife	1-800-GET-MET8 (438-6388)
	Liberty Mutual	1-800-524-9400
Group Legal:	Hyatt Legal	1-800-GET-MET8 (438-6388)
	Say Legal	
Short Term Disability	The Standard	1-800-759-8702 ext. 0624

Failure to make payments on your voluntary benefits could result in a lapse in coverage. The State of Utah will not pay these benefits for an employee during a furlough.

23. Will there be an impact on an employee's retirement?

The following information applies to employees in both the regular retirement system as well as the Public Safety retirement system.

Service Credit: Furloughs that result in an employee being in a furlough status for more than 10 consecutive working days in a row will have an impact on service credit. Service credit will be reduced, resulting in the employee working longer to meet eligibility requirements. Any furlough time less than 10 consecutive working days in a row will not affect service credit.

Employer Contributions: As discussed above in 16, salary-driven benefits are paid at the same percentage, but only on actual wages. For example:

- a. Tier 1 Defined Benefit (DB) Retirement System: The 22.19% contribution that the state pays for retirement pension benefits for employees in the Non-Contributory system is based on a percent of salary, and therefore would be calculated on actual wages earned. Therefore, in a furlough situation the state's actual contribution in dollars to URS would be less than normal, but the contribution rate

itself is not affected. If an employee works an 80 hour pay period and is furloughed for 10 hours, the 22.19% contribution rate would be based on wages for 70 hours, not 80.

- b. Tier 2 Defined Benefit (DB) Hybrid and Tier 2 Defined Contribution (DC) Plan: The contribution that the state pays for retirement pension benefits for employees in the Tier 2 system is based on a percent of salary, and therefore would be calculated on actual wages earned. The DB plan includes 8.42% pension and 1.58% 401(k). The DC plan includes 10% 401(k).

Therefore, in a furlough situation the state's actual contribution in dollars to URS would be less than normal, but the contribution rate itself is not affected. If an employee works an 80 hour pay period and is furloughed for 10 hours, the 10% total contribution rate would be based on wages for 70 hours, not 80.

- c. The 1.5% contribution that the state pays into the 401(k) for the Tier 1 Non-Contributory system would also be based on a percent of salary, and therefore would be calculated on actual wages earned. This will reduce the actual dollar amount paid by the State, but the contribution rate itself is not affected.
- d. Other salary-driven benefits include: Long-Term Disability, Social Security/Medicare, Workers' Compensation, and Unemployment.

Defined Benefit Formula: Employees in the Tier 1 plan who retire from a defined benefit plan have a formula that determines their benefit amount. For employees in the Non-Contributory plan this formula is "years of service" x 2% x Final Average Salary (FAS = average of highest 3 years). While service credit with URS will not be affected if an employee is furloughed for less than 10 consecutive working days, the monthly amount the employee receives at retirement could be reduced. For example: the final average salary is the average of the HIGHEST 3 years. If an employee normally works 80 hours in a pay period and is furloughed for 10 hours, the annual salary for this employee is 10 hours less than it would have been. If the furlough occurs in a year that is, or would have been, one of the employee's highest 3 years, this will be reflected in the benefit. Contact URS at 801-366-7770 for additional information.

24. Will part-time employees keep their benefits?

Part time employees who normally work 20 hours/week will keep their benefits. The impacts explained in question 16 also apply to part time employees, but annual, sick and holiday leave would be based on pro-rated amounts. These accruals will be given at the pro-rated amounts, if funding for back pay is available, once the YF code (see question 26) is replaced with paid hours by your agency's assigned payroll team.

25. Does a furlough have any impact on Unemployment Insurance?

It depends. An employee's ability to collect unemployment is specific to the individual employee and is based upon numerous, specific factors and formulas. Because of this we cannot say that a furlough will or will not affect an employee's ability to collect unemployment benefits. For specific information regarding your unemployment insurance eligibility, and to submit a claim, please visit the Department of Workforce Services (DWS) website at www.jobs.utah.gov. To contact DWS via telephone, please call the Claims Center at one of the following locations:

- Salt Lake and South Davis Counties (801) 526-4400
- Weber and North Davis Counties (801) 612-0877
- Utah County (801) 375-4067
- Remainder of State and Out of State 1-888-848-0688

D. Furlough Procedures

26. How should a furlough be documented on timesheets?

The SAP payroll system will process everything involved with a furlough for you, if the furlough code is used. The employee's furlough time should not be recorded as time worked, as leave, or as regular leave-without-pay. The proper code is **YF**. This code **MUST** be used in order for benefits to process correctly. When there is a holiday during a furlough the holiday can be left blank on the timesheet, or if the agency prefers the YF code can be entered on the holiday. When the furlough ends your agency's assigned payroll team may replace the YF hours with paid hours so the employee may receive back pay if funding is available. Once the paid hours are entered, and the YF hours on any holidays are deleted, the holiday hours will auto-calculate in the payroll system.

27. How does a furlough affect FLSA-Exempt employees?

The FLSA has special regulations for public employers on how to pay, deduct pay, and account for leave usage for FLSA exempt employees that differs from the private sector. Furloughs of FLSA exempt employees are allowed under these special provisions. However, ***only during the workweek in which the furlough occurs***, FLSA exempt employees are to be treated as if they were non-exempt. The possibility exists in this circumstance that exempt employees could be eligible for time and one-half for paid overtime or compensatory accrual if employees exceed their normal hours worked within the workweek of which the furlough takes place.

Note: The payroll system will NOT calculate overtime in this case correctly. It is not programmed to know that when FLSA exempt employees are in a furlough that they are to be treated as non-exempt for that week. This means that manual entries of overtime will be required by ERIC or your payroll staff.

Note: DHRM would advise management in all agencies who implement a furlough to manage, during the workweek in which a furlough occurs, the time worked and leave used for all employees, both exempt and non-exempt, so that employees do not exceed 40 total hours and so no excess or comp time accrues, or overtime hours are paid. The accruals of these leave types, and the cost of paid overtime, will lessen the total cost-savings that the furlough is intended to create, and will create additional work for ERIC and your payroll staff to assure that we are in compliance with federal FLSA regulations.

28. How does a furloughed employee know when to come back to work?

When an employee is furloughed, they should ensure that their current contact information is current with their supervisor/management chain of command, and their field agency HR office. When funding becomes permanent and the employee is required to come back to work, their supervisor/management chain of command will contact the employee with return to work instructions.

29. Will employees who are furloughed because of the Federal Shutdown be paid for the time that they are off?

The United States Congress will determine whether federal employees will receive pay for the furlough. At this time it is uncertain how “back pay” if approved by Congress for federal employees will affect State of Utah employees working under federal funding. Each State employee that has been furloughed will need to be evaluated in a case by case basis for back pay funding implications.

30. If I am furloughed, when will I be expected to return to work?

Every employee’s situation will be different. Agencies can expect employees to return to work as soon as possible, taking into account an employee’s specific situation while on furlough. After a furloughed employee has been notified to come back to work, they are expected to contact their supervisor within 48 hours of being notified.

E. Furlough Rules

DHRM Rules R477-7-14. Furlough.

(1) Agency management may furlough employees as a means of saving salary costs in lieu of or in addition to a reduction in force. Furlough plans are subject to the approval of the agency head and the following conditions:

- (a) Furlough hours shall be counted for purposes of annual, sick and holiday leave accrual.
- (b) Payment of all state paid benefits shall continue at the agency's expense.
 - (i) Benefits that have fixed costs shall be paid at the full rate regardless of how many days an employee is furloughed.
 - (ii) Benefits that are paid as a percentage of actual wages shall continue to be paid as percentage of actual wages if the furlough is less than one pay period. Employees who are furloughed for a full pay period shall have no percentage based benefits paid.
- (c) An employee who is furloughed shall continue to pay the employee portion of all benefits. Voluntary benefits shall remain entirely at the employee's expense.
- (d) An employee shall return to the current position.
- (e) Furlough is applied equitably; e.g., to all persons in a given class, all program staff, or all staff in an organization.

Effective July 1, 2017 (FY2018)